

**REMARKS**

This Amendment is in response to the NOTICE OF NON-COMPLIANT AMENDMENT mailed January 22, 2010. This reply is timely filed within the one (1) month time period set forth in the ACTION.

Reconsideration is respectfully requested.

**I. REPLY TO NOTICE OF NON-COMPLIANT AMENDMENT**

Applicant respectfully traverses the characterization that the prior amendment filed October 8, 2009 is non-compliant. For reasons set forth below, Applicant respectfully requests entry of the October 8, 2009 amendment and allowance of the subject application.

**A. The Office is estopped from classifying the pending claims as being drawn to a non-elected species.**

A Restriction Requirement was mailed on November 30, 2006. A Reply and election was filed December 27, 2006. Since the election, three (3) amendments have been filed all presenting claims congruous with the currently pending claims.

If the claims were directed to a non-elected species, the non-compliance must have been raised with the filing of the amendments over the previous three and one half years! The currently pending claims are of the same scope as the amendment filed August 20, 2008, a full year and one half prior to this NOTICE. It would violate all principles of equity to classify these claims as being drawn to non-elected species after they have been examined numerous times by the Office.

In view of MPEP 707.07 that requires the action to be complete as to all matters, and further in view of the fact that claims of this scope have been pending and examined over the previous eighteen months, Applicant asserts examination of the claims and the issuance of Office Actions on October 6, 2008 and July 8, 2009 is indicative that the Office determined the claims to be properly presented in view of the Restriction requirement of November 30, 2006.

**B. Currently pending claims are within the scope of elected claims.**

Applicant additionally asserts that the currently pending claims do not differ from the elected species.

Currently pending claims do not require a separate stabilizer. Applicant is specifically claiming the coating is applied and functions as an agglutinative coating without the need for any separate stabilizer.

Applicant has distinctly pointed out in the prior Office Action Reply, that the composition consists of shellac, without the need of any other materials, to plasticize, stabilize, or alter the coating.

These claims are completely within the elected species of a composition lacking a stabilizing agent.

Because the currently pending claims are drawn to an elected species, Applicant respectfully requests reconsideration and withdrawal of the current determination that the claims are drawn to a non-elected species.

Applicant: Romero  
Serial No.: 10/782,245  
Filed: February 18, 2004

Based on the Amendments presented, Applicant respectfully asserts the application is patentable over the prior art and is now in condition for allowance. If the Examiner believes there are any additional issues that have not been resolved, the Examiner is invited to call the undersigned representative who is attorney of record in this case.

Applicant asserts, no new matter is added by these amendments.

The Commissioner is hereby authorized to charge our Deposit Account No. 19-0734 should any additional fee(s) be required in the filing of this paper to expedite the examination of this application.

Respectfully submitted,

February 22, 2010

/David W. Barman/

Date:

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